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BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

LEANDRO GATUS, M.D..

Physician's and Surgeon's
Certificate #A-45231

Respondent.

File No: 05-1997-81247

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 11, 2000.

IT IS SO ORDERED July 12, 2000

MEDICAL BOARD OF CALIFORNIA



Ira Lubell, M.D.
Chair, Panel A
Division of Medical Quality

1 Bill Lockyer, Attorney General
of the State of California
2 RICHARD D. MARINO (State Bar No. 90471)
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 5212
4 Los Angeles, California 90013-1233
Telephone: (213) 897-8644

5 Attorneys for Complainant
6
7

8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

| | |
|---------------------------------------|----------------------------------|
| 11 In the Matter of the Accusation) | Case No. 05-1997-81247 |
| Against:) | OAH No. L-2000010507 |
| 12) | |
| 13 LEANDRO G. GATUS, M.D.) | STIPULATED SETTLEMENT AND |
| 4731 Conchita Way) | DISCIPLINARY ORDER |
| Tarzana, Ca. 91356) | |
| 14) | |
| Physician and Surgeon's Certificate) | |
| 15 No. A 45231,) | |
| 16 Respondent.) | |

17
18 **IT IS HEREBY STIPULATED AND AGREED** by and between the
19 parties to the above-entitled proceedings that the following
20 matters are true:

21 1. An Accusation in case number 05-1997-81247 was filed
22 with the Division of Medical Quality, Medical Board of California,
23 Department of Consumer Affairs (hereinafter the "Division") on
24 December 1, 1999, and is currently pending against LEANDRO G.
25 GATUS, M.D. ("respondent").

26 2. The Accusation, together with all statutorily
27 required documents, was duly served on the respondent on or about

1 December 1, 1999, and respondent filed his Notice of Defense
2 contesting the Accusation on or about December 8, 1999. A copy of
3 Accusation No. 05-1997-81247 is attached as Exhibit "1" and hereby
4 incorporated by reference as if fully set forth.

5 3. Complainant, Ron Joseph, is the Executive Director of
6 the Medical Board of California ("Complainant") and brought this
7 action solely in his official capacity. The Complainant is
8 represented by the Attorney General of California, Bill Lockyer, by
9 and through Deputy Attorney General Richard D. Marino.

10 4. At all times relevant herein, respondent has been
11 licensed by the Medical Board of California under Physician and
12 Surgeon's Certificate No. A 45231.

13 5. Respondent is representing himself in this matter in
14 *propria persona*.

15 6. Respondent has fully read the charges contained in
16 Accusation No. 05-94-40204. Respondent is fully aware of his legal
17 rights and the effects of this Stipulated Settlement and
18 Disciplinary Order.

19 7. Respondent understands the nature of the charges
20 alleged in the Accusation and that, if proven at hearing, the
21 charges and allegations would constitute cause for imposing
22 discipline upon his Physician and Surgeon's Certificate.
23 Respondent is fully aware of his right to a hearing on the charges
24 contained in the Accusation, his right to confront and cross-
25 examine witnesses against him, his right to the use of subpoenas to
26 compel the attendance of witnesses and the production of documents
27 in both defense and mitigation of the charges, his right to

1 reconsideration, court review and any and all other rights accorded
2 by the California Administrative Procedure Act and other applicable
3 laws.

4 8. Respondent knowingly, intelligently, voluntarily and
5 irrevocably waives and gives up each of these rights.

6 9. Respondent admits the truth of paragraphs 1 through
7 5, inclusive, of Accusation No. 05-1997-81247, and agrees that he
8 has thereby subjected his Physician and Surgeon's Certificate to
9 disciplinary action under Business and Professions Code section
10 2236 for having sustained a criminal conviction for an offense
11 substantially related to the qualifications, functions or duties of
12 a physician and surgeon--namely, driving with a blood alcohol level
13 greater than .08 percent, in violation of Vehicle Code section
14 23152, subdivision (B). Respondent agrees to be bound by the
15 Division's Disciplinary Order as set forth below.

16 10. The admissions made by respondent herein are for the
17 purpose of this proceeding and any other proceedings in which the
18 Division of Medical Quality, Medical Board of California, or other
19 professional licensing agency is involved, and shall not be
20 admissible in any other criminal or civil proceedings.

21 11. Based on the foregoing admissions and stipulated
22 matters, the parties agree that the Division shall, without further
23 notice or formal proceeding, issue and enter the following order:

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Physician and Surgeon's
3 Certificate No. A 45231 issued to LEANDRO G. GATUS, M.D. is
4 revoked. However, the revocation is stayed and respondent is
5 placed on probation for two (2) years on the following terms and
6 conditions. Within 15 days after the effective date of this
7 decision the respondent shall provide the Division, or its
8 designee, proof of service that respondent has served a true copy
9 of this decision on the Chief of Staff or the Chief Executive
10 Officer at every hospital where privileges or membership are
11 extended to respondent or where respondent is employed to practice
12 medicine and on the Chief Executive Officer at every insurance
13 carrier where malpractice insurance coverage is extended to
14 respondent.

15 1. **ALCOHOL - ABSTAIN FROM USE** Respondent shall abstain
16 completely from the use of alcoholic beverages.

17 2. **BIOLOGICAL FLUID TESTING** Respondent shall immediately
18 submit to biological fluid testing, at respondent's cost, upon the
19 request of the Division or its designee.

20 3. **TWELVE STEP PROGRAM** Within thirty (30) days from the
21 effective date of this decision, respondent shall enroll and
22 participate in an Alcoholics Anonymous or similar 12-Step recovery
23 program until the Division or its designee determines that the
24 respondent's participation in such a program is no longer necessary
25 or until the termination of probation whichever occurs first.
26 Quitting the program without permission or failing to attend the
27 program on a regular basis shall constitute a violation of

1 probation by respondent.

2 4. ETHICS COURSE Within sixty (60) days of the
3 effective date of this decision, respondent shall enroll in a
4 course in Ethics approved in advance by the Division or its
5 designee, and shall successfully complete the course during the
6 first year of probation.

7 5. OBEY ALL LAWS Respondent shall obey all federal,
8 state and local laws, all rules governing the practice of medicine
9 in California, and remain in full compliance with any court ordered
10 criminal probation, payments and other orders.

11 6. QUARTERLY REPORTS Respondent shall submit quarterly
12 declarations under penalty of perjury on forms provided by the
13 Division, stating whether there has been compliance with all the
14 conditions of probation.

15 7. PROBATION SURVEILLANCE PROGRAM COMPLIANCE Respondent
16 shall comply with the Division's probation surveillance program.
17 Respondent shall, at all times, keep the Division informed of his
18 business and residence addresses which shall both serve as
19 addresses of record. Changes of such addresses shall be
20 immediately communicated in writing to the Division. Under no
21 circumstances shall a post office box serve as an address of
22 record.

23 Respondent shall also immediately inform the Division, in
24 writing, of any travel to any areas outside the jurisdiction of
25 California which lasts, or is contemplated to last, more than
26 thirty (30) days.

27 8. INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS DESIGNATED

1 PHYSICIAN(S) Respondent shall appear in person for interviews with
2 the Division, its designee or its designated physician(s) upon
3 request at various intervals and with reasonable notice.

4 9. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-STATE NON-
5 PRACTICE In the event respondent should leave California to reside
6 or to practice outside the State or for any reason should
7 respondent stop practicing medicine in California, respondent shall
8 notify the Division or its designee in writing within ten (10) days
9 of the dates of departure and return or the dates of non-practice
10 within California. Non-practice is defined as any period of time
11 exceeding thirty (30) days in which respondent is not engaging in
12 any activities defined in Sections 2051 and 2052 of the Business
13 and Professions Code. All time spent in an intensive training
14 program approved by the Division or its designee shall be
15 considered as time spent in the practice of medicine. Periods of
16 temporary or permanent residence or practice outside California or
17 of non-practice within California, as defined in this condition,
18 will not apply to the reduction of the probationary period.

19 10. COMPLETION OF PROBATION Upon successful completion of
20 probation, respondent's certificate shall be fully restored.

21 11. VIOLATION OF PROBATION If respondent violates
22 probation in any respect, the Division, after giving respondent
23 notice and the opportunity to be heard, may revoke probation and
24 carry out the disciplinary order that was stayed. If an accusation
25 or petition to revoke probation is filed against respondent during
26 probation, the Division shall have continuing jurisdiction until
27 the matter is final, and the period of probation shall be extended

1 until the matter is final.

2 12. COST RECOVERY The respondent is hereby ordered to
3 reimburse the Division the amount of \$4,000, in 12 equal
4 installments during the first year of probation, for its
5 investigative and prosecution costs. The first installment is due
6 within thirty (30) days of the effective date of this decision and
7 each subsequent installment every thirty (30) days thereafter.
8 Failure to reimburse the Division's cost of investigation and
9 prosecution shall constitute a violation of the probation order,
10 unless the Division agrees in writing to payment by an alternate
11 installment plan because of financial hardship. The filing of
12 bankruptcy by the respondent shall not relieve the respondent of
13 his responsibility to reimburse the Division for its investigative
14 and prosecution costs.

15 13. PROBATION COSTS Respondent shall pay the costs
16 associated with probation monitoring each and every year of
17 probation, which are currently set at \$2,304, but may be adjusted
18 on an annual basis. Such costs shall be payable to the Division of
19 Medical Quality and delivered to the designated probation
20 surveillance monitor at the beginning of each calendar year.
21 Failure to pay costs within 30 days of the due date shall
22 constitute a violation of probation.

23 14. LICENSE SURRENDER Following the effective date of
24 this decision, if respondent ceases practicing due to retirement,
25 health reasons or is otherwise unable to satisfy the terms and
26 conditions of probation, respondent may voluntarily tender his
27 certificate to the Board. The Division reserves the right to

1 evaluate the respondent's request and to exercise its discretion
2 whether to grant the request, or to take any other action deemed
3 appropriate and reasonable under the circumstances. Upon formal
4 acceptance of the tendered license, respondent will not longer be
5 subject to the terms and conditions of probation.

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DATED: March 14, 2000


RICHARD D. MARINO
Deputy Attorney General
Attorneys for Complainant

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EXHIBIT "1"

1 Bill Lockyer, Attorney General
of the State of California
2 RICHARD D. MARINO (State Bar No. 90471)
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 5212
4 Los Angeles, California 90013-1233
Telephone: (213) 897-8644

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8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

11 In the Matter of the Accusation) Case No. 05-1997-81247
Against:)

12 **LEANDRO G. GATUS, M.D.**) **A C C U S A T I O N**
13 4731 Conchita Way)
Tarzana, Ca. 91356)

14 Physician and Surgeon's Certificate)
15 No. A 45231,)

16 Respondent.)
17

18 The Complainant alleges:

19 **PARTIES**

20 1. Complainant, Ron Joseph, is the Executive Director
21 of the Medical Board of California, Department of Consumer Affairs,
22 State of California (hereinafter "Board") and brings this
23 accusation solely in his official capacity.

24 2. On or about August 22, 1988, Physician and Surgeon's
25 Certificate No. A 45231 was issued by the Board to LEANDRO G.
26 GATUS, M.D. (hereinafter "respondent"), and at all times relevant
27 to the charges brought herein, this license has been in full force

1 and effect. Unless renewed, it will expire on February 28, 2000.

2 **JURISDICTION**

3 3. This accusation is brought before the Board's
4 Division of Medical Quality (hereinafter "Division"), under the
5 authority of the following sections of the California Business and
6 Professions Code (hereinafter "Code"):

7 A. Section 2227 provides that a licensee who is
8 found guilty under the Medical Practice Act may have his
9 license revoked, suspended for a period not to exceed one
10 year, placed on probation and required to pay the costs of
11 probation monitoring, or such other action taken in relation
12 to discipline the Division deems proper.

13 B. Section 2234 provides that unprofessional
14 conduct includes, but is not limited to, the following:

15 "(a) Violating or attempting to violate, directly or
16 indirectly, or assisting in or abetting the violation of,
17 or conspiring to violate, any provision of this chapter.

18 "(b) Gross negligence.

19 "(c) Repeated negligent acts.

20 "(d) Incompetence.

21 "(e) The commission of any act involving dishonesty
22 or corruption which is substantially related to the
23 qualifications, functions, or duties of a physician and
24 surgeon.

25 "(f) Any action or conduct which would have
26 warranted the denial of a certificate.

27 ". . . ."

1 C. Section 2236 of the Code provides:

2 "(a) The conviction of any offense
3 substantially related to the qualifications, functions,
4 or duties of a physician and surgeon constitutes
5 unprofessional conduct within the meaning of this
6 chapter. The record of conviction shall be conclusive
7 evidence only of the fact that the conviction occurred.

8 "(b) The district attorney, city attorney, or
9 other prosecuting agency shall notify the Division of
10 Medical Quality of the pendency of an action against a
11 licensee charging a felony or misdemeanor immediately
12 upon obtaining information that the defendant is a
13 licensee. The notice shall identify the licensee and
14 described the crimes charged and the facts alleged. The
15 prosecuting agency shall also notify the clerk of the
16 court in which the action is pending that the defendant
17 is a licensee, and the clerk shall record prominently in
18 the file that the defendant holds a license as a
19 physician and surgeon.

20 "(c) The clerk of the court in which a
21 licensee is convicted of a crime shall, within 48 hours
22 after the conviction, transmit a certified copy of the
23 record of conviction to the board. The division may
24 inquire into the circumstances surrounding the commission
25 of a crime in order to fix the degree of discipline or to
26 determine if the conviction is of an offense
27 substantially related to the qualifications, functions,

1 or duties of a physician and surgeon.

2 "(d) A plea or verdict of guilty or a
3 conviction after a plea of nolo contendere is deemed to
4 be a conviction within the meaning of this section and
5 Section 2236.1. The record of conviction shall be
6 conclusive evidence of the fact that the conviction
7 occurred.

8 D. Section 2239 of the Code provides:

9 "(a) The use or prescribing for or
10 administering to himself or herself, of any controlled
11 substance; or the use of any of the dangerous drugs
12 specified in Section 4211, or of alcoholic beverages, to
13 the extent, or in such a manner as to be dangerous or
14 injurious to the licensee, or to any other person or to
15 the public, or to the extent that such use impairs the
16 ability of the licensee to practice medicine safely or
17 more than one misdemeanor or any felony involving the
18 use, consumption, or self-administration of any of the
19 substances referred to in this section, or any
20 combination thereof, constitutes unprofessional conduct.
21 The record of the conviction is conclusive evidence of
22 such unprofessional conduct.

23 "(b) A plea or verdict of guilty or a
24 conviction following a plea of nolo contendere is deemed
25 to be a conviction within the meaning of this section.
26 The Division of Medical Quality may order discipline of
27 the licensee in accordance with Section 2227 or the

1 Division of Licensing may order the denial of the license
2 when the time for appeal has elapsed or the judgment of
3 conviction has been affirmed on appeal or when an order
4 granting probation is made suspending imposition of
5 sentence, irrespective of a subsequent order under the
6 provisions of Section 1203.4 of the Penal Code allowing
7 such person to withdraw his or her plea of guilty and to
8 enter a plea of not guilty, or setting aside the verdict
9 of guilty, or dismissing the accusation, complaint,
10 information, or indictment."

11 E. Section 490 of the Code provides:

12 "A board may suspend or revoke a license on the
13 ground that the licensee has been convicted of a crime,
14 if the crime is substantially related to the
15 qualifications, functions, or duties of the business or
16 profession for which the license was issued . A
17 conviction within the meaning of this section means a
18 plea or verdict of guilty or a conviction following a
19 plea of nolo contendere. Any action which a board is
20 permitted to take following the establishment of a
21 conviction may be taken when the time for appeal has
22 elapsed, or the judgment of conviction has been affirmed
23 on appeal, or when an order granting probation is made
24 suspending the imposition of sentence, irrespective of a
25 subsequent order under the provisions of Section 1203.4
26 of the Penal Code."

27 F. Section 820 of the Code provides:

1 "Whenever it appears that any person holding a
2 license, certificate or permit under this division or
3 under any initiative act referred to in this division may
4 be unable to practice his or her profession safely
5 because the licentiate's ability to practice is impaired
6 due to mental illness, or physical illness affecting
7 competency, the licensing agency may order the licentiate
8 to be examined by one or more physicians and surgeons or
9 psychologists designated by the agency. The report of
10 the examiners shall be made available to the licentiate
11 and may be received as direct evidence in proceedings
12 conducted pursuant to Section 822.

13 G. Section 821 of the Code provides:

14 "The licentiate's failure to comply with an
15 order issued under Section 820 shall constitute grounds
16 for the suspension or revocation of the licentiate's
17 certificate or license. "

18 H. Section 822 of the Code provides:

19 "If a licensing agency determines that its
20 licentiate's ability to practice his or her profession
21 safely is impaired because the licentiate is mentally
22 ill, or physically ill affecting competency, the
23 licensing agency may take action by any one of the
24 following methods:

25 "(a) Revoking the licentiate's certificate or
26 license.

27 "(b) Suspending the licentiate's right to

1 practice.

2 "(c) Placing the licentiate on probation.

3 "(d) Taking such other action in relation to
4 the licentiate as the licensing agency in its discretion
5 deems proper.

6 "The licensing agency shall not reinstate a
7 revoked or suspended certificate or license until it has
8 received competent evidence of the absence or control of
9 the condition which caused its action and until it is
10 satisfied that with due regard for the public health and
11 safety the person's right to practice his or her
12 profession may be safely reinstated."

13 I. Section 826 of the Code provides:

14 "The proceedings under Sections 821 and 822
15 shall be conducted in accordance with Chapter 5
16 (commencing with Section 11500) of Part 1 of Division 3
17 of Title 2 of the Government Code [Administrative
18 Procedure Act], and the licensing agency and the
19 licentiate shall have all the rights and powers granted
20 therein."

21 J. Section 125.3 of the Code provides, in relevant
22 part, that the Board may request the administrative law judge
23 to direct any licentiate found to have committed a violation
24 or violations of the licensing act, to pay the Board a sum not
25 to exceed the reasonable costs of the investigation and
26 enforcement of the case.

1 **REIMBURSEMENT FOR MEDI-CAL CLAIMS**

2 4. Section 14124.12 of the Welfare and Institutions
3 Code provides:

4 "(a) Upon receipt of written notice from the
5 Medical Board of California, the Osteopathic Medical
6 Board of California, or the Board of Dental Examiners of
7 California, that a licensee's license has been placed on
8 probation as a result of a disciplinary action, the
9 department may not reimburse any Medi-Cal claim for the
10 type of surgical service or invasive procedure that gave
11 rise to the probation, including any dental surgery or
12 invasive procedure, that was performed by the licensee on
13 or after the effective date of probation and until the
14 termination of all probationary terms and conditions or
15 until the probationary period has ended, whichever occurs
16 first. This section shall apply except in any case in
17 which the relevant licensing board determines that
18 compelling circumstances warrant the continued
19 reimbursement during the probationary period of any Medi-
20 Cal claim, including any claim for dental services, as so
21 described. In such a case, the department shall continue
22 to reimburse the licensee for all procedures, except for
23 those invasive or surgical procedures for which the
24 licensee was placed on probation.

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1 negotiated plea agreement, respondent changed his previously
2 entered not guilty plea to the charge set forth in Count 2 of
3 the complaint--namely, driving with a blood alcohol level
4 greater than .08 percent--to *nolo contendere*. Proceedings
5 were suspended. Respondent was placed on summary probation
6 for 36 months with certain terms and conditions including,
7 among others, that respondent complete an alcohol and drug
8 education program and pay a \$390 fine. Thereafter, the
9 driving under the influence charge in Count 1 was dismissed in
10 the furtherance of justice.

11 C. On or about April 11, 1994, respondent failed
12 to appear before the court or, in the alternative, to file
13 with the court proof of having completed the alcohol and drug
14 education program. A bench warrant for respondent in the
15 amount of \$15,000 was issued by the Court.

16 D. On or about May 17, 1994, respondent appeared
17 with proof of having completed the alcohol and drug education
18 program. Proceedings were terminated and the bench warrant
19 was recalled.

20 E. Respondent's December 1993 arrest was not his
21 first.

22 (1) On or about November 4, 1987,
23 respondent was found to be in possession of a
24 stolen .357 Magnum revolver during a police
25 investigation of his wife's report of domestic
26 violence.

27 (2) On that date, respondent and his

1 wife engaged in a heated dispute that escalated
2 into a physical altercation when respondent struck
3 his wife across her right cheek.

4 (3) The police were called. Upon their
5 arrival, they observed that respondent's wife right
6 cheek reddened and swollen.

7 (4) Upon asking respondent's wife
8 whether respondent had any weapons in the
9 residence, respondent's wife stated that respondent
10 kept a .357 revolver in a kitchen drawer and a .22
11 caliber rifle in the master bedroom. The police
12 retrieved the .357 revolver from the kitchen and
13 proceeded upstairs where they found respondent in
14 the master bedroom.

15 (5) Respondent was arrested for
16 inflicting corporal injury on a spouse, a violation
17 of Penal Code section 273.5. The police seized the
18 .22 caliber rifle which was located in the bedroom
19 as indicated by respondent's wife.

20 (6) The police checked the serial number
21 on the .357 Magnum revolver and found that it was
22 stolen. Before learning the handgun was stolen,
23 the police were told by respondent that he had
24 purchased the handgun six months earlier.
25 Respondent, however, refused to divulge the
26 identity of the seller.

27 (7) The police booked respondent for

1 receiving stolen property, a violation of Penal
2 Code section 496.1.

3 (8) On or about November 11, 1987, in
4 the matter entitled *The People of the State of*
5 *California v. Leandro Gulapa Gatus*, Misdemeanor
6 Complaint No. 87F10705, Los Angeles County
7 Municipal Court, San Fernando Judicial District,
8 respondent was charged with inflicting corporal
9 injury on a spouse, in violation of Penal Code
10 section 273.5, subdivision (a), and battery, in
11 violation of Penal Code section 242.

12 (9) On or about August 29, 1988, the
13 case was dismissed, respondent having successfully
14 completed a diversion program to which he was
15 admitted on or about February 29, 1988, upon his
16 motion.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Criminal Conviction--Possession of Dangerous Weapon)**

19 6. Respondent Leandro G. Gatus, M.D., is subject to
20 disciplinary action under sections 490, generally, and 2236,
21 specifically, of the Business and Professions Code in that
22 respondent has sustained a conviction for possession of a dangerous
23 weapon, in violation of Penal Code section 12020, subdivision (a),
24 a misdemeanor and a crime which, under the facts and circumstances
25 of its commission, is substantially related to the qualifications,
26 functions and duties of respondent's licensure. The facts and
27 circumstances underlying respondent's conviction are as follows:

1 A. On or about September 22, 1996, at
2 approximately, 2:45 a.m., respondent was stopped for suspected
3 drunk driving. Prior to being stopped, respondent was
4 observed straddling the traffic lane dividing lines and
5 driving 55 miles per hour in a 35 miles per hour speed zone.

6 B. After detecting the strong odor of alcohol on
7 respondent and administering the standard field sobriety test
8 which respondent failed, the police placed respondent under
9 arrest for driving under the influence of alcohol or drugs, a
10 violation of Vehicle Code section 22152. subdivision (a), and
11 transported him to the police station. During booking, the
12 police found a knife in respondent's front pants pocket.
13 Respondent was charged with possession of a dangerous weapon,
14 a violation of Penal Code section 12020, subdivision (a).

15 C. On or about September 30, 1996, in the matter
16 entitled *The People of the State of California v. Leandro G.*
17 *Gatus*, Misdemeanor Complaint No. 6PN06997, Los Angeles County
18 Municipal Court, Van Nuys Judicial District, respondent was
19 charged, in Count 1, with possession of a dangerous weapon, a
20 violation of Penal Code section 12020, subdivision (a).

21 D. At his arraignment on October 17, 1996,
22 respondent entered a not guilty plea.

23 E. On or about November 20, 1996, pursuant to a
24 negotiated plea agreement, respondent changed his previously
25 entered not guilty plea to the charge to *nolo contendere*.
26 Proceedings were suspended. Respondent was placed on summary
27 probation for 12 months on the term and condition, among

1 others, that he pay a fine in the amount of \$300.

2 **THIRD CAUSE FOR DISCIPLINE**

3 **(Use of Alcoholic Beverages)**

4 7. Respondent Leandro G. Gatus, M.D., is subject to
5 disciplinary action under section 2239 of the Business and
6 Professions Code in that respondent has used alcoholic beverages or
7 any of the dangerous drugs specified in section 4211 of the
8 Business and Professions Code to the extent or in such a manner as
9 to be dangerous or injurious to himself or to the public; and, that
10 respondent has sustained more than one misdemeanor conviction
11 involving the use or consumption of alcoholic beverages or
12 self-administration of any of the substances referred to in section
13 2239, as follows:

14 A. Complainant refers to and, by this reference,
15 incorporates herein paragraphs 5, subparagraphs A through E,
16 inclusive, and 6, subparagraphs A through E, inclusive, above
17 as though fully set forth.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct)**

20 8. Respondent Leandro G. Gatus, M.D., is subject to
21 disciplinary action under section 2234, generally, of the Business
22 and Professions Code in that respondent has engaged in
23 unprofessional conduct by reason of his 1994 and 1996 criminal
24 convictions for offenses which under the facts and circumstances of
25 their commission are substantially related to the qualifications,
26 functions, and duties of a physician and surgeon; by using
27 alcoholic beverages or any of the dangerous drugs specified in

1 section 4211 of the Business and Professions Code to the extent or
2 in such a manner as to be dangerous or injurious to himself or to
3 the public; or, by sustaining more than one misdemeanor conviction
4 involving the use or consumption of alcoholic beverages or any of
5 the dangerous drugs specified in section 4211 of the Business and
6 Professions Code, as follows:

7 A. Complainant refers to and, by this reference,
8 incorporates herein paragraphs 5, subparagraphs A through E,
9 inclusive, and 6, subparagraphs A through E, inclusive, above
10 as though fully set forth.

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1 PRAYER

2 **WHEREFORE**, the complainant requests that a hearing be
3 held on the matters herein alleged, and that following the hearing,
4 the Division issue a decision:


5 1. Revoking or suspending Physician and Surgeon's
6 Certificate Number A 45231, heretofore issued to respondent LEANDRO
7 G. GATUS, M.D.;

8 2. Revoking, suspending or denying approval of the
9 respondent's authority to supervise physician's assistants,
10 pursuant to Business and Professions Code section 3527;

11 3. Ordering respondent to pay the Division the actual
12 and reasonable costs of the investigation and enforcement of this
13 case as well as the costs of probation monitoring, if applicable;
14 and,

15 4. Taking such other and further action as the Division
16 deems necessary and proper.

17 DATED: December 1, 1999.

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20 _____
21 Ron Joseph
22 Executive Director
23 Medical Board of California
24 Department of Consumer Affairs
25 State of California

26 Complainant

27 03573160-LA99AD0000